



U.S. Department of Justice

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United States Attorney
Eastern District of New York

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U.S. DISTRICT COURT E.D.N.Y.

One Pierrepont Plaza
Brooklyn, New York 11201

★ **SEP 12 7 2005** ★

Mailing Address: 147 Pierrepont Street
Brooklyn, New York 11201

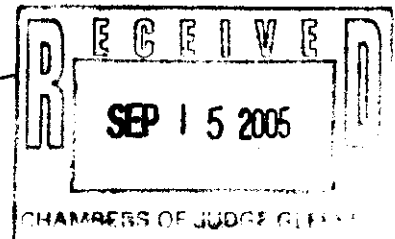
BROOKLYN OFFICE

September 14, 2005

COURTESY COPY
VIA INTEROFFICE MAIL

Honorable John Gleeson
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Granted
So ordered
s/John Gleeson



Re: Younker v. BICE
Docket No. CV-05-3990 (JG) 9-20-05

Dear Judge Gleeson:

The government respectfully requests an extension of thirty (30) days - until October 14, 2005 - to respond to the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, dated August 12, 2005 ("Petition"), and the Court's order to show cause, dated August 24, 2005. This is the government's first request for an extension in this case.

The Petitioner Bernadette Elaine Younker ("Petitioner") currently is under indictment in the United States District Court for the Southern District of New York for unlawful presence in the United States pursuant to 8 U.S.C. § 1326(a) & (b)(2). See General Docket and Indictment, USA v. Younker, No. 05-CR-00827 (S.D.N.Y.) (annexed hereto). She currently is in custody at the Metropolitan Correctional Center in Manhattan.¹ Although the Petitioner challenges the indictment in this petition, the undersigned has been informed that she entered a plea of guilty on September 13, 2005.² This extension is necessary in order for the government to

¹ This letter is being sent to the Petitioner at the Metropolitan Correctional Center, rather than the address provided by the Petitioner on her petition.

² In her petition, the Petitioner states that she seeks to "challenge the indictment against her for illegal reentry after

ascertain whether, in light of her plea, the Petitioner wishes to withdraw the instant petition.

Respectfully submitted,

ROSLYNN R. MAUSKOPF
United States Attorney

By: /s/ {filed electronically}
MARGARET M. KOLBE (MK2942)
Assistant U.S. Attorney
(718) 254-6039

cc: Bernadette Elaine Yonker
#58128-054
MCC New York
Metropolitan Correctional Center
150 Park Row
New York, NY 10007
[FED EX]

deportation." See Petition at ¶ 1. In particular, she asserts that her indictment should be dismissed because she was denied due process of law in the underlying 1994 deportation proceedings. Id. at p. 4. As such, her claim in this petition is identical to a claim that could have been brought in her criminal proceeding by way of a motion to dismiss her indictment pursuant to 8 U.S.C. § 1326(d) and United States v. Copeland, 376 F.3d 61, 71 (2d Cir. 2004).

ECF

**U.S. District Court
Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:05-cr-00827-JES-ALL**

Case title: USA v. Younker

Date Filed: 08/10/2005

Assigned to: Judge John E. Sprizzo

Defendant**Bernadette Elaine Younker (1)***also known as*

Theresa Regis (1)

Pending CountsREENTRY OF DEPORTED ALIENS
(ILLEGAL REENTRY)
(1)**Disposition****Highest Offense Level (Opening)**

Felony

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

None

Disposition**Plaintiff**

USA

represented by **Christine Wong**
United States Attorney
1 St Andrews Pl
New York, NY 10007
212-637-2460
Email: christine.wong@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/10/2005	<u>1</u>	INDICTMENT FILED as to Bernadette Elaine Younker (1) count(s) 1. (jm,); Microfilm 8/11/05 12pm. Modified on 8/11/2005 (bw,). (Entered: 08/11/2005)
08/10/2005		Case Designated ECF as to Bernadette Elaine Younker.(jm,) (Entered: 08/11/2005)
08/12/2005		Minute Entry for proceedings held before Judge Andrew J. Peck :Initial Appearance as to Bernadette Elaine Younker held on 8/12/2005. (ja,) (Entered: 08/26/2005)
08/12/2005		Minute Entry for proceedings held before Judge Andrew J. Peck :Arraignment (on Disposition Sheet) as to Bernadette Elaine Younker (1) Count 1 held on 8/12/2005. Dft arrested 8/12/05 at 10 a.m. Dft Bernadette Younker pres w/cnsl Yasmin Cader (Legal Aid). BAIL DISPOSITION: Detention on consent w/o prejudice. Dft arraigned and enter Not Guilty plea. T/E to 9/9/05 on consent. Hrg 9/9/05, 3 p.m. (ja,) (Entered: 08/26/2005)
08/12/2005		Minute Entry for proceedings held before Judge Andrew J. Peck : Plea entered by Bernadette Elaine Younker (1) Count 1, Not Guilty. (ja,) (Entered: 08/26/2005)
08/12/2005		Minute Entry for proceedings held before Judge Andrew J. Peck : as to Bernadette Elaine Younker Pretrial Conference set for 9/9/2005 03:00 PM before Judge John E. Sprizzo. (ja,) (Entered: 08/26/2005)
09/09/2005	<u>4</u>	STIPULATION as to Bernadette Elaine Younker., Pretrial conference presently scheduled for friday 9/9/05 is adjourned to 9/13/2005 03:00 PM before Judge John E. Sprizzo. Time excluded purs. to 18USC 3161(h)(8) (A) until 9/13/05.So Ordered. (Signed by Judge John E. Sprizzo on 9/6/05)(pr,) (Entered: 09/12/2005)

PACER Service Center			
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09/14/2005 11:08:12			
PACER Login:	us8539	Client Code:	
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

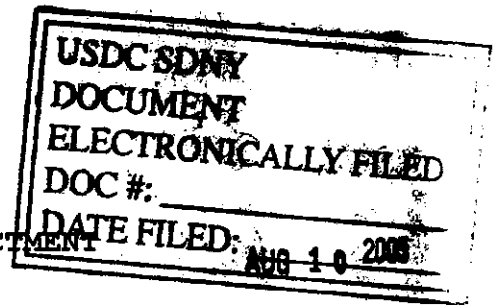
BERNADETTE ELAINE YOUNKER,
a/k/a "Theresa Regis,"

Defendant.

INDICTMENT

05 Cr.

05 CRIM. 827



COUNT ONE

The Grand Jury charges:

1. From at least on or about May 24, 2005, up to and including on or about the date of the filing of this Indictment, in the Southern District of New York and elsewhere, BERNADETTE ELAINE YOUNKER, a/k/a "Theresa Regis," the defendant, being an alien, unlawfully, willfully, and knowingly, did enter, and was found in the United States, after having been deported from the United States subsequent to a conviction for an aggravated felony, to wit, a conviction on or about February 21, 1992, for possession of a criminal substance with intent to distribute in the second degree, in New Jersey Superior Court, Union County, without having obtained the permission of the Attorney General of the United States, or his successor, the Secretary of Homeland Security, to apply for re-admission.

(Title 8, United States Code, Sections 1326(a) & (b)(2).)

Richard J. Bonifas
FOREPERSON

David N. Kelley
DAVID N. KELLEY
United States Attorney

JUDGE SPRIZZO

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

BERNADETTE ELAINE YOUNKER,
a/k/a "Theresa Regis,"

Defendant.

INDICTMENT

05 Cr.

(Title 8, United States Code, Section 1326)

David N. Kelley
United States Attorney.

A TRUE BILL

Richard J. Bonifas
Foreperson.

Dec 8/05: Ret 11/187 indictment
filed. A/W ordered, assigned to
Judge Sprizzo.
Feb, m. 3